



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

SHEMSU BALKER MD

Respondent Name

AMERICAN ZURICH INSURANCE COMPANY

MFDR Tracking Number

M4-14-1478-02

Carrier's Austin Representative

Box Number 19

MFDR Date Received

January 27, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Designated Doctor Examinations are billed according to DWC Rule 134.204 and in accordance with Labor Code 408.004, 408.0041, and 408.151,"

Amount in Dispute: \$337.50

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with applicable fee guidelines."

Response Submitted by: Flahive, Ogden & Latson, Post Office Drawer 201329, Austin, TX 78720

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 21, 2013	Designated Doctor Examination	\$337.50	\$337.50

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 sets out the fee guideline for Workers' Compensation specific services.
3. Labor Code §408.004 sets out provisions related to required medical examinations.
4. Labor Code §408.0041 sets out provisions related to designated doctor examinations.
5. Labor Code §408.151 sets out provisions related to medical examinations for supplemental income benefits.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 16 – (16) CLAIM/SERVICE LACKS INFORMATION OR HAS SUBMISSION/BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION

Issues

1. What is the applicable rule for determining reimbursement of the disputed services?
2. Did the respondent support the insurance carrier's reasons for reduction of payment?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The disputed services relate to a designated doctor examination pursuant to a Commissioner order to determine the ability of the injured employee to return to work, with billing and reimbursement subject to the provisions of 28 Texas Administrative Code §134.204(i)(1), which requires that "Designated Doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041 and 408.151 and Division rules, and shall be billed and reimbursed as follows: . . . (E) Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section, with the use of the additional modifier 'W8'." §134.204(i)(2) further specifies that "When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection: (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section; (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section."
2. The insurance carrier reduced payment to 25% of the set fee for the disputed return to work examination, procedure code 99456-W8-RE, service date March 21, 2013, indicating reason code 16 – "CLAIM/SERVICE LACKS INFORMATION OR HAS SUBMISSION/BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION." The insurance carrier further explains in the response to the request for reconsideration that "99456/W8.RE allowing \$162.50 (650 * 25%) – third exam Per bill journal: No indication of a separate or second division order." The insurance carrier additionally asserts that "Per review of history: 10/17/12 . . . 99456/RE.W8 allowed \$500 – first exam . . . 99456/RE.W6 allowed \$250 (650 x 50% = \$325) – second exam allowed at billed charge."

The Commissioner order, dated March 1, 2013, specifies that a designated doctor examination be performed for the purposes of determining Maximum Medical Improvement (MMI), Impairment Rating (IR), and Return to Work. The Division notes that the insurance carrier made full payment for the MMI and IR examinations performed on the same date, and that reimbursement for those services is not in dispute.

The Division further notes that examinations to determine MMI and IR are subject to the provisions of §134.204(i)(1)(A) and (B) respectively—not paragraph (1)(C) - (F). Accordingly, examinations to determine MMI and IR are not considered as first or second examinations for the purposes of calculating reduced payment for multiple examinations under paragraph (1)(C) - (F) when performed concurrently under the same specific Division order.

Review of the submitted documentation finds only one examination, procedure code 99456-W8-RE, performed under paragraph (1)(C) – (F) on the disputed service date of March 21, 2013. The Commissioner order is dated March 1, 2013. Although the insurance carrier refers to prior examinations performed on October 17, 2012, the Division notes that those prior examinations were performed before the Commissioner order date of March 1, 2013. Review of Division records finds that a prior Division order for examinations was issued in October of 2012. The reimbursement reductions contemplated in §134.204(i)(2) are only applicable to multiple examinations under the same specific Division order. Review of the submitted documentation finds that the examinations performed in October of 2012 and March of 2013 were rendered pursuant to two different Division orders. No information was found to support insurance carrier payment of any other examinations performed concurrently under paragraph (1)(C) - (F) under the same specific Division order dated March 1, 2013. The insurance carrier's payment reduction reason is not supported.

3. Per 28 Texas Administrative Code §134.204(k), "The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports." Reimbursement for procedure code 99456-W8-RE is \$500.00. The insurance carrier paid \$162.50, leaving a balance due to the requestor of \$337.50. The requestor is therefore entitled to additional reimbursement of \$337.50.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$337.50.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$337.50 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

_____	Grayson Richardson	June 27, 2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.